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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/250,940	02/18/1999	JAY H. CONNELLY	2207/6019	2643

7590 06/04/2003

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EXAMINER

TRAN, TRANG U

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/250,940

Applicant(s)

CONNELLY ET AL.

Examiner

Trang U. Tran

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2-16, 18-27, 29-36, 38 and 41-48.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

DETAILED ACTION

1. Applicant's arguments filed May 09, 2003 have been fully considered but they are not persuasive.

In re pages 2-4, applicants argue, with respect to 35 U.S.C. 112, first paragraph of claims 41, 2-15, 43, 44, 27, 29-33, and 38, that the specification as filed describes several examples of the claimed limitation "a command device generating a command signal associated with the data signal" recited in claims 41, 27, 38, and 45 and the claimed limitation "a transmission signal, wherein data in the command signal and data in the data signal are linked so that when the data is used at a receiving end of the transmission signal, the at least one target device is controlled as a function of the command signal while the output device at the receiving end provides an output as a function of the data signal". In one example embodiment, described in the Specification on page 5, starting at line 3, the command signal is at least logically associated with the data signal. In this example, the command signal is used to control a home appliance while the data signal (to which it is associated) is output. As set forth in the specification, the data signal may display a TV program on a television while the command signal controls an intensity of the lights in the room in which the TV is being viewed. Thus, the lights may be dimmed or brightened at selected times during the TV program, accordingly, the command signal is at least logically associated with the data signal.

In another example embodiment described in the specification, the command signal is at least physically associated (e.g., via a pointer) with the data signal. In particular, in one example described in the specification starting at page 5, line 16, the

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command signal is transmitted separately from the data packets. The command packets include a second pointer that points to a corresponding data packet. In yet another embodiment, the command signal is transmitted with the data packets.

In response, the examiner respectfully disagrees. As set forth in one embodiment described in the specification on page 5, starting at line 3, the data signal may display a TV program on a television while the command signal controls an intensity of the lights in the room in which the TV is being viewed and the lights may be dimmed or brightened at selected times during the TV program. This embodiment shows that the command signal controls the intensity of the lights in the room in which the TV is being viewed while the data signal may be display a TV program on a television. This embodiment described that the command signals may be transmitted along with the TV program but they are **separate distinct signals** and are not associated or linked to each other in any manner.

In another embodiment described in the specification starting at page 5, line 16, the command packets include a second pointer that points to a corresponding data packet. In this embodiment, the packets themselves are related to each other via pointers but the content of the command signal and data signal are separate distinct signals and are not associated or linked to each other in any manner.

Thus, the specification as filed does not describes command signals associated/linked with data signals as recited in claims 41, 27, 38, 45, and 13.

In re pages 5-6, applicants argue that the VCR codes of Michaud are not used to control a target device while an output device provides an output (e.g., the television) as

a function of the program within which the VCR codes are sent as recited in claims 16 and 34.

In response, the examiner respectfully disagrees. Michaud discloses cable television communications system. The system includes a settop terminal having infrared blaster for transmitting control instruction from the settop terminal to the VCR (col. 1, lines 40-52). Michaud teaches that the headend 12 continuously transmits the entire database of information relating to VCR manufacturers 104, model numbers 106, control data 108 and programming data 110 in a repeating data stream by inserting the data stream within lines 20 r 22 of the vertical blanking interval of programs transmitted over a specific broadcast channel (col. 3, line 66 to col. 4, line 13) and the settop terminal is used to control the VCR to record any programs selected by the consumer (col. 5, line 22 to col. 6, line 17). Since the information relating to VCR manufacturers 104, model numbers 106, control data 108 and programming data 110 are transmitting during **vertical blanking intervals** of televisions programs and the **settop terminal** can be used to control VCR to record television program, the settop terminal of Michaud outputs the television program while it controls the VCR to record any television programs selected by the consumer. Thus, Michaud does indeed disclose the claimed that the at least one target device (VCR) is controlled as a function of the command signal while an output device (settop terminal) provides an output as a function of the data signal as recited in claims 16 and 34.

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2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Trang U. Tran** whose telephone number is **(703) 305-0090**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W. Miller**, can be reached at **(703) 305-4795**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

TT TT
May 28, 2003


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600